

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 565 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJPUT RAJU @ RAVANO BHUPATBHAI

Versus

DISTRICT MAGISTRATE

Appearance:

MR RC KODEKAR for Petitioner

MRS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 5th October, 1998 made by the District Magistrate, Bhavnagar under the powers conferred

upon him under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a habitual offender, and therefore, a 'dangerous person' within the meaning of Section 2 (c) of the Act and his activities are considered to be prejudicial to the maintenance of public order. As many as four offences punishable under Chapter XVII of the Indian Penal Code have been registered against the petitioner. Besides, the police has also recorded statements of four witnesses who have given statements in respect of the nefarious activities of the petitioner and its adverse effect on the public tranquillity and the even tempo of life.

4. It is argued that apart from the fact that names and other particulars of the witnesses have been withheld by the Detaining Authority, even their statements were not legible. Supply of illegible copy of a document amounts to non-supply of the document on which the reliance is placed. The petitioner is, therefore, deprived of his right to make an effective representation against the order of detention. The impugned order is, therefore, vitiated and the continued detention of the petitioner is not warranted.

5. Learned AGP Mrs. Punani has perused the records and has conceded that the statement of the witness at page 68 is partially illegible. It must, therefore, be held that the petitioner is furnished a copy of the document which is not legible and the petitioner is, thereby, deprived of his right to make an effective representation. The continued detention of the petitioner is, therefore, bad and illegal.

6. For the aforesaid reasons, the petition is allowed. The impugned order dated 5th October, 1998, Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. Petitioner, unless is required to be detained in some other case, be released forthwith.

Prakash*